IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 197 OF 2006
WITH
WRIT PETITION NO. 3514 OF 2001

Harichandra Annaji Fawade. ... Petitioner.

V/s.

Zenith Ltd. and others. ... Respondents.

Indrajit Kulkarni for the petitioner.

Rajesh Gehani for respondent Nos.1 and 2.

CORAM: V.C.DAGA, J.

DATED: 27th March 2006.

P.C.:

. The applicant/ original petitioner has filed this application for recalling the order dated 5th July, 2005, whereby petition was dismissed in default.

2. Mr.Kulkarni, learned counsel appearing for the applicant/ original petitioner submits that, even otherwise, in view of the judgment of the Apex Court in the case of **Cipla Ltd. v. Maharashtra General Kamgar Union**, AIR 2001 SC 1165, the substantive petition does not survive.

3. Mr.Kulkarni, thus, submits that the order

dated 5th July, 2005 dismissing the petition in default be recalled and petition be disposed on merits confirming the impugned order passed by the Industrial Court. The learned counsel for respondent Nos.1 and 2 has no objection to accept this suggestion made by Mr.Kulkarni.

4. Considering the submissions made, order dated 5th July, 2005 is recalled. Petition is restored to file. The impugned order is confirmed.

5. Substantive petition stands disposed of in view of the law laid down by the Apex Court in the case of **Cipla Ltd.** (supra) with no order as to costs.

6. Civil application stands disposed of in terms of this order with no order as to costs.

(V.C.DAGA, J.)